

IN THE COURT OF APPEALS OF TENNESSEE  
AT NASHVILLE  
November 17, 2006 Session

**WUBALEM G. GUANGUL v. UNITED IMPORTS, ET AL.**

**Appeal from the Chancery Court for Davidson County  
No. 00-2845-I Claudia C. Bonnyman, Chancellor**

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**No. M2005-02614-COA-R3-CV - Filed on February 27, 2007**

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The individual defendant in this action appeals the trial court's denial of his motion to quash the execution of a judgment levied against him. The appellant, Farhad Soheilinia, contends he is not Fahad Soheilinia, the individual against whom the judgment was rendered. The trial court made a specific finding of fact that he was served with process and was the individual defendant against whom the judgment was rendered. Finding the evidence does not preponderate against the trial court's finding of fact, we affirm.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court  
Affirmed**

FRANK G. CLEMENT, JR., J., delivered the opinion of the court, in which WILLIAM C. KOCH, JR., P.J., M.S., and PATRICIA J. COTTRELL, J., joined.

Joel H. Moseley, Sr., and Joel H. Moseley, Jr., Nashville, Tennessee, for the appellants, United Imports and Fahad Soheilinia.

Mark A. Baugh and Yanika C. Smith, Nashville, Tennessee, for the appellee, Wubalem Guangul.

**OPINION**

On December 29, 1998, a used car dealership known as United Imports sold a motor vehicle to Plaintiff, Wubalem G. Guangul. After purchasing the vehicle, Plaintiff discovered the car had defects, which the seller had concealed from him. When Plaintiff's negotiations with the dealership failed to resolve the dispute, Plaintiff filed this action pursuant to the Tennessee Consumer Protection Act against the dealership, United Imports, and an individual, Fahad Soheilinia,<sup>1</sup> who was identified in the Complaint as the owner of the used car dealership.

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<sup>1</sup>The Complaint and initial filings identify the individual defendant as "Fahad" Soheilinia. Later filings in the case identify the individual defendant as "Farhad" Soheilinia. The appellant identifies himself as "Farhad" Soheilinia.

The Complaint and Summons were served by the Sheriff on Fahad Soheilinia and a return of service was properly filed with the court. After Mr. Soheilinia failed to respond to the Complaint, Plaintiff filed a Motion for Default Judgment against Mr. Soheilinia. When Mr. Soheilinia failed to respond to the Motion, the trial court granted a default judgment against “Fahad” Soheilinia.

Subsequently, Plaintiff served post-judgment interrogatories and a Notice of Deposition on Fahad Soheilinia to discover assets. Once again, Mr. Soheilinia failed to respond. As a consequence, Plaintiff filed a motion to hold Mr. Soheilinia in contempt. The motion was granted. After being found in contempt of court, “Farhad” Soheilinia filed his first pleading in this action by way of a limited appearance, wherein he asked the court to rescind the contempt action, claiming he did not receive the interrogatories or the Notice of Deposition until after the contempt order was rendered. Farhad Soheilinia claimed he was not the person named in the action because the Complaint and Summons identified the defendant as “Fahad” Soheilinia, and that he was not “Fahad” Soheilinia.

The trial court rescinded the contempt order and ordered Mr. Soheilinia to attend a deposition in April 2005. Mr. Soheilinia complied but when Plaintiff attempted once again to have him answer interrogatories, he sought a protective order claiming he was not a party and therefore was not subject to post-judgment discovery. After considering the merits of the motion, the trial court denied the motion and ordered Mr. Soheilinia to submit to discovery.

When Plaintiff filed an execution against “Farhad” Soheilinia’s bank account, Mr. Soheilinia filed a Motion to Quash the Execution contending he was not the defendant, insisting instead that his father Gholam Ali Soheilinia was the owner of the used car dealership and, thus, his father was the intended individual defendant.<sup>2</sup> After considering the Motion to Quash and all evidence presented, including the fact that Gholam Ali Soheilinia was not named in the Complaint as a party defendant, the trial court made a specific finding that “Farhad” Soheilinia and “Fahad” Soheilinia were the same person and that he was the defendant. Accordingly, the trial court denied the Motion to Quash the Execution. It is from the Order denying the Motion to Quash the Execution that Farhad Soheilinia appeals.

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<sup>2</sup>The appellant also made a closing statement in his brief that he had not been served with process, which we find to be without merit. Mr. Soheilinia’s efforts to impeach the Sheriff’s return of service of process was based on Mr. Soheilinia’s affidavit and that of one of his employees. Service on Mr. Soheilinia was effected by a Deputy Sheriff who made a proper return of service which was duly filed with the court. “An officer’s return is prima facie evidence of proper service of process, and the oath of an interested party is legally insufficient to overcome the return.” *Jackson v. Aldridge*, 6 S.W.3d 501, 503 (Tenn. Ct. App.1999)(citations omitted). To impeach service of process by the Sheriff, testimony of the defendant should be supported by other disinterested witnesses or corroborating circumstances. *Brake v. Kelly*, 226 S.W.2d 1008, 1011 (Tenn. 1950). The only evidence other than that of Mr. Soheilinia was provided by one of the employees of the dealership, Tooraj Sohrabi Sedeh, whose testimony did not challenge the service of process on Mr. Soheilinia. Instead, Mr. Sedeh’s testimony only referenced envelopes delivered to the dealership on March 28, 2005 that pertained to the notice of deposition scheduled for January 18, 2005 and the Order of Contempt, which occurred long after Mr. Soheilinia was served with process. Mr. Soheilinia’s challenge to the Sheriff’s return of service of process is therefore insufficient. *Jackson*, 6 S.W.3d at 503; *Brake*, 226 S.W.2d at 1011.

The trial court made a specific finding that “Farhad” Soheilinia and “Fahad” Soheilinia were the same person. The standard of review of a trial court’s findings of fact is *de novo*, and we presume that the findings of fact are correct unless the preponderance of the evidence is otherwise. Tenn. R. App. P. 13(d); *Rawlings v. John Hancock Mut. Life Ins. Co.*, 78 S.W.3d 291, 296 (Tenn. Ct. App. 2001). The evidence in the record does not preponderate against the finding that “Farhad” Soheilinia and “Fahad” Soheilinia are the same person.

The judgment of the trial court is affirmed, and this matter is remanded with costs of appeal assessed against the Appellant.

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FRANK G. CLEMENT, JR., JUDGE